

Remarks

In summary, the telephonic interview between the below signed attorney and the Examiner on May 22, 2009 pertained to a discussion of differences between the guide tube of Claim 1 with respect to head portion 37 of Sheldon and its blade 38 and 41 disposed in head portion 37, and differences between the location the cutter 60 in Spaulding with respect to Spaulding's instrument that of the claimed blade of the present invention.

Page 10 of the specification has been amended to describe that the blade shuttle and blade are guided longitudinally along the outer tubular surface of the guide tube. This is not new matter as such is clearly evident by FIGS. 2 and 2A, and especially FIGS. 24-25, of the Application which illustrates an example of the blade shuttle 56 and blade 64 being guided longitudinally along the outer surface of the guide tube, which being a tube is tubular (see FIGS. 1 and 2A for example). Page 10 is also amended to describe a guide wire being passed into the open end of guide tube, via an opening extending through the guide tube to the other end of the guide tube. This is not new matter as the guide tube 58 is shown as having two opposing ends in FIGS. 5, 15, and 16, and such tube is described in the same paragraph as passed through an open end 69 of the guide tube so as to extend a guide wire 70 through the guide tube (as shown in FIGS. 17-19, and 21-27). Page 10 is further amended to add a patent number of a referenced patent application. Entry of the amended specification is respectfully requested.

Claims 1-3, 10, 16, 18 and 25-27 were rejected as being anticipated by Sheldon, U.S. Patent No. 2,873,742. It is the Examiner's position that head portion 37 of Sheldon is a tube. However, head portion 37 retains blades 38 and 41, and is shown in FIGS. 6-8 of Sheldon to be of solid material, in which the blades are not movable with respect to head portion 37. Nevertheless to clarify Claim 1, rather than to overcome this rejection, Claim 1 has been amended to describe the guide tube as comprising an outer tubular surface, two ends, and an opening extending through the guide tube between the ends of the guide tube, and a path through at least the opening of the guide tube for extending a guide wire. It cannot be said that the head portion 37 of Sheldon shown in FIGS. 6-8 provides such a guide tube of Claim 1.

Claim 25 has been amended to describe that the blade is movable with respect to the member. Head portion 37 of Sheldon cannot be the member of Claim 25 since Sheldon's blades 38 or 41 are not described as being movable with respect to head portion 37 (see FIGS. 6-8, and column 4, lines 8-22 of Sheldon). Thus, Claims 1 and 25, along with their dependent Claims 2-3, 10, 16, 18 and 26-27 cannot be anticipated by Sheldon.

Claims 1-4, 6-10, 15-18 and 21-27 were rejected as being anticipated by Spaulding, U.S. Patent No. 6,036,707. It is the Examiner's position that in housing 34 "the area between element 42 to the distal end of element 53" is the guide tube of Claim 1, and that cutter 60 is the blade of Claim 1 (see Office Action dated February 13, 2008, lines 13 and 16). Spaulding states at column 5, lines 46-48, that "[t]he cutter 60 reciprocally advances in an axial direction within the housing 34 past the opening 64" (underline added). If the diameter of cutter 60 were more than the interior diameter of housing 34 along opening 64, then cutter 60 would not be able to be advanced past opening 64 in housing 34 as taught by Spaulding. Thus, at all time with respect to opening 64 of housing 34, the cutter 60 must be within the interior diameter of housing 34 of Spaulding. Accordingly, there is no blade in Spaulding extendable and retractable through opening 64 of housing 34 to cut tissue outside of the instrument.

In order to clarify Claim 1, rather than to overcome this rejection, Claim 1 has been amended to describe means for cutting tissue guided along the outer tubular surface of the guide tube. First, cutter 60 of Spaulding cannot be the means for cutting tissue of Claim 1 since it is not guided along an outer tubular surface of any guide tube. Spaulding states that its cutter 60 is located "within the housing 34". Second, housing 34 may have an outer surface 49, but such surface does not guide cutter 60 given that cutter 60 is present inside housing 34, not along the outer surface of housing 34. Third, modifying the outer surface 49 for cutter 60 would be very difficult when housing 34 is designed to move in and out of sleeve 46 of body 32, as indicated by arrows 63 (see column 5, lines 56-61, of Spaulding, and FIGS. 1, 3 and 4). Thus, Spaulding fails to describe each and every element of Claim 1.

Also, in order to clarify Claim 8, rather than to overcome this rejection, Claim 8 has been amended to describe the blade shuttle riding along the outer tubular surface of the guide tube in a channel of the blade shuttle. Neither work element 38, nor its cutter 60, of Spaulding can be the blade shuttle of Claim 8, since they do not ride along the outer tubular surface of any tube (see FIG. 3 of Spaulding). Rather work element 38 and its cutter 60 moves "within the housing 34" which the Examiner contends represents the guide tube. Thus, Spaulding fails to describe each and every element of Claim 8.

As stated earlier, Spaulding at column 5, lines 56-61, teaches that its housing 34 is designed to move in and out of sleeve 46 of the catheter body 32 (FIG. 1), as indicated by arrows 63 (FIG. 3), see illustrated movement of housing 34 in Spaulding's catheter by comparing FIG. 3 with FIG. 4. The Examiner contends that the claimed shaft is provided by body 32, and that the

claimed blade guiding member is provided between elements 42 and 53, which are both part of housing 34 (i.e., housing 34 has slots 53 in its surface 49 and a nosecone 42 - see FIG. 3 and column 5, lines 6-7, 21-26). Since Claim 25, as amended, describes that the blade guiding member is non-movable with respect to the shaft of the instrument, and Spaulding teaches the opposite with respect to the elements of Spaulding the Examiner contends are such member and shaft, then Spaulding fails to describe each and every element of Claim 25.

For the above reasons, Claims 1, 8 and 25 cannot be anticipated by Spaulding, and withdrawal of the rejections of Claims 1, 8 and 25, and there respective dependent Claims 2-4, 6-7, 9-10, 15-18, 21-24, and 26-27 is requested.

Claims 5 and 20 were rejected as being unpatentable over Spaulding in view of Sauer et al., U.S. Patent No. 5,562,694 ("Sauer"). Claims 5 and 20 depend on at least base Claim 1, and as Sauer fails to describe or suggest that argued above as being absent in Spaulding, Claims 5 and 20 cannot be obvious in view of the combination of Spaulding and Sauer.

Claims 4-6, 16, 18, 23-24, and 26 have been amended to better correspond their language with that of their amended base claims and/or to place the claims in better condition for allowance, and not for the purpose of overcoming any rejection of such claims.

New dependent Claims 28-31 are enclosed for Examiner consideration.

It is believed the Application is in condition for allowance, and a Notice of Allowance is respectfully requested. A Petition for a one-month extension of time is enclosed with \$279.00 to cover the petition fee and claim fee.

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Respectfully submitted,



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Enclosure: Combined Amendment and Petition for Extension of Time with check for \$279.00.